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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/492,154	01/27/2000	Toru Ueda	0033-0638P-SP	9504

7590                    10/21/2004

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EXAMINER
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PARTON, KEVIN S

ART UNIT	PAPER NUMBER
2153	

DATE MAILED: 10/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/492,154	UEDA ET AL.	
	Examiner Kevin Parton	Art Unit 2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 September 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 9-11,21,24,33,44,45,54 and 55 is/are allowed.
- 6) Claim(s) 1-8, 12-20, 22, 23, 25-32, 34-43, and 46-53 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

## DETAILED ACTION

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### ***Response to Arguments***

2. Applicant's arguments filed 09/17/2004 regarding the Anderson reference and the Asano reference with regards to claims 12-18, 20, and 25-33 have been fully considered but they are not persuasive. Please see the following reasons and the grounds of rejection below.

3. Regarding the reference to Anderson, the application argues that it fails to teach selecting a method of data transfer based on data attribute information that is acquired. Further, that it fails to teach or suggest that a node has a plurality of transfer techniques available to select. The arguments are not persuasive for two reasons. First, Anderson does teach the selection of a transfer method based on data attributes (figure 3; column 5, lines 9-11, 22-26). Specifically, one of multiple sources may be selected based on these attributes, this can be referred to as a transfer method. Second, regardless of the teachings of Anderson, the claims do not specifically point out that each node must provide a plurality of transfer "techniques" that may be selected between.

4. Regarding the reference to Asano as applied to claims 12-18, 10, and 25-33, the applicant argues that the reference fails to teach a data attribute information acquiring unit as recited in claim 1. The argument is not persuasive because the reference does teach the acquisition of transfer speed information (data attribute) from equipment (abstract; column 2, lines 31-44; column 8, lines 38-42).

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5. Applicant's arguments regarding claim 9 are persuasive and this claim and its dependent claims have been allowed. Further, claims 21, 44 and their dependent claims have been allowed for the same reasons applied to claim 9.

***Allowable Subject Matter***

6. Claims 9-11, 21, 24, 33, 44, 45, 54, and 55 are allowed.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1, 4, 5, 8, 22, 23, 34-43, and 46-55 are rejected under 35 U.S.C. 102(e) as being anticipated by Anderson (USPN 6,427,165).

9. Regarding claim 1, Anderson (USPN 6,427,165) teaches a data receiving system comprising:

- a. A data attribute information acquiring unit acquiring data attribute information of each data item managed by an equipment connected to a network wherein the attribute is included in the content of data received in a communication from the equipment (column 4, lines 46-53; figure 3).

- b. A transfer selecting unit selecting a method of data transfer based on the data attribute information of each data item acquired by the data attribute information acquiring unit (column 5, lines 9-11; figure 3).
- c. A data receiving unit receiving data by the method of transfer selected by the transfer selecting unit (column 5, lines 9-11; figure 3).

10. Regarding claims 4 and 8 Anderson (USPN 6,427,165) teaches all the limitations as applied to claims 1 and 5 respectively. He further teaches means wherein the transfer selecting unit includes a command set selecting unit selecting a command set based on the data attribute information acquired by the data attribute information acquiring unit (column 4, lines 46-53; column 5, lines 9-11; figure 3).

11. Regarding claims 5, 48, and 49, Anderson (USPN 6,427,165) teaches a data transfer system comprising:

- a. A data attribute information transmitting unit transmitting data attribute information of each data item managed by its own equipment to an equipment connected to a network (column 4, lines 46-53; column 5, lines 9-11; figure 3)
- b. A command receiving unit receiving a command from the equipment connected to the network (column 4, lines 46-53; column 5, lines 9-11; figure 3)
- c. A transfer selecting unit selecting a transfer method based on data attribute information included in the command (column 4, lines 46-53; column 5, lines 9-11; figure 3)

- d. A data transmitting unit transmitting data by the transfer method selected by the transfer selecting unit (column 4, lines 46-53; column 5, lines 9-11; figure 3)
12. Regarding claims 22 and 23, Anderson (USPN 6,427,165) teaches all the limitations as applied to claims 1 and 5, respectively. He further teaches means wherein the attribute information is extracted from the communication (column 4, lines 46-53; column 5, lines 9-11; figure 3).
13. Regarding claim 34, Anderson (USPN 6,427,165) teaches all the limitations as applied to claim 1. He further teaches means wherein the data attribute information acquiring unit acquires the data attribute information using a common protocol (column 4, lines 46-53; column 5, lines 9-11; figure 3).
14. Regarding claim 35, Anderson (USPN 6,427,165) teaches all the limitations as applied to claim 1. He further teaches an equipment attribute information acquiring unit acquiring equipment attribute information of the equipment connected to the network, wherein the data attribute information is acquired for all or some of the equipments for which the equipment attribute information has been acquired (column 4, lines 46-53; column 5, lines 9-11; figure 3).
15. Regarding claim 36, Anderson (USPN 6,427,165) teaches all of the limitations as applied to claim 35. He further teaches means wherein the equipment attribute information includes at least one of the name of the equipment, a name of its function, a manufacturer's name, a processible protocol, icon information, and a current state (figure 3).

16. Regarding claim 37, Anderson (USPN 6,427,165) teaches all the limitations as applied to claim 1. He further teaches means wherein the data attribute information includes at least one of a file name, a data format, a data size, icon information, protocol information, description of contents, and a creation date (figure 3).

17. Regarding claim 38, Anderson (USPN 6,427,165) teaches all the limitations as applied to claim 1. He further teaches an attribute displaying unit displaying all or some of the equipment attribute information and/or the data attribute information (figure 3; figure 1, element 112).

18. Regarding claim 39, 50 and 51, Anderson (USPN 6,427,165) teaches a data receiving apparatus comprising:

- a. A data attribute information transmitting unit transmitting data attribute information of its own equipment to an equipment connected to a network (column 4, lines 46-53; column 5, lines 9-11; figure 3).
- b. A command receiving unit receiving a command from the equipment connected to the network (column 4, lines 46-53; column 5, lines 9-11; figure 3).
- c. A transfer selecting unit selecting a transfer method based on data attribute information included in the command (column 4, lines 46-53; column 5, lines 9-11; figure 3).
- d. A data receiving unit receiving data by the transfer method selected by the transfer selecting unit (column 4, lines 46-53; column 5, lines 9-11; figure 3).

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19. Regarding claims 40 and 41, Anderson (USPN 6,427,165) teaches all the limitations as applied to claims 39 and 5, respectively. He further teaches an equipment attribute information transmitting unit transmitting equipment attribute information of its own equipment to the equipment connected to the network (column 4, lines 46-53; column 5, lines 9-11; figure 3).

20. Regarding claims 42, 52, and 53 Anderson (USPN 6,427,165) teaches a data transfer system comprising:

- a. A data attribute information transmitting unit transmitting data attribute information of data managed by its own equipment to an equipment connected to a network (column 4, lines 46-53; column 5, lines 9-11; figure 3).
- b. An equipment attribute information receiving unit receiving equipment attribute information from the equipment connected to the network (column 4, lines 46-53; column 5, lines 9-11; figure 3).
- c. A command receiving unit receiving a command from the equipment connected to the network (column 4, lines 46-53; column 5, lines 9-11; figure 3).
- d. A transfer selecting unit selecting a transfer method based on data attribute information included in the command (column 4, lines 46-53; column 5, lines 9-11; figure 3).

- e. A data transmitting unit transmitting data by the transfer method selected by the transfer selecting unit (column 4, lines 46-53; column 5, lines 9-11; figure 3).
21. Regarding claim 43, Anderson (USPN 6,427,165) teaches all the limitations as applied to claim 42. He further teaches an attribute displaying unit displaying all or some of the equipment attribute information and/or the data attribute information (figure 3; figure 1, element 112).
22. Regarding claims 46 and 47, Anderson (USPN 6,427,165) teaches a system with means for:
- a. Acquiring data attribute information of each data item managed by an equipment connected to a network (column 4, lines 46-53; column 5, lines 9-11; figure 3).
  - b. Selecting a method of data transfer based on the acquired data attribute information of each data item (column 4, lines 46-53; column 5, lines 9-11; figure 3).
  - c. Receiving data by the selected method of data transfer (column 4, lines 46-53; column 5, lines 9-11; figure 3).
23. Claims 12-18, 20, and 25-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Asano (USPN 5,881,240).
24. Regarding claims 12 and 15, Asano (USPN 5,881,240) teaches a data transfer system with means for:

- a. Acquiring attribute information of data managed by an equipment connected to a network wherein the attribute information is included in the content of data received in a communication from the equipment (abstract; figure 3, element 98; column 2, lines 31-44; column 8, lines 38-42).
- b. Selecting a method of data transfer based on the acquired attribute information of data (column 8, lines 40-42; column 8, lines 60-63).
- c. Receiving data by the selected method of transfer (column 8, lines 60-65; figure 3, element 116).

25. Regarding claims 13 and 16, Asano (USPN 5,881,240) teaches a data transfer system with means for:

- a. Acquiring attribute information of data managed by an equipment connected to a network wherein the attribute information is included in the content of data received in a communication from the equipment (abstract; figure 3, element 98; column 2, lines 31-44; column 8, lines 38-42).
- b. Selecting a method of data transfer based on the acquired attribute information of data (column 8, lines 40-42; column 8, lines 60-63).
- c. Transmitting data by the selected method of transfer (column 8, lines 60-65; figure 3, element 116).

26. Regarding claims 14 and 17, Asano (USPN 5,881,240) teaches a data transfer system with means for:

- a. Acquiring attribute information acquiring unit acquiring attribute information of an equipment connected to a network wherein the attribute is included in the content of data received in a communication from the equipment (abstract; figure 3, element 98; column 2, lines 31-44; column 8, lines 38-42).
  - b. Selecting attribute information of first and second equipments from the attribute information of equipments (column 8, line 60 – column 9, line 22). Note that the computer of the reference determines attributes for two separate connected pieces of equipment.
  - c. Acquiring attribute information of data managed by the selected first equipment (abstract; figure 3, element 98; column 2, lines 31-44; column 8, lines 38-42).
  - d. Selecting a method of data transfer based on the acquired attribute information of data and the attribute information of the second computer (column 8, lines 40-42; column 8, lines 60-63, column 8, line 60 – column 9, line 22). Note that the transmission rate may be based on the capabilities of the second piece of equipment.
  - e. Instructing data transfer from the first equipment to the second equipment by the selected method of transfer (column 8, lines 60-65; figure 3, element 116).
27. Regarding claim 18, Asano teaches a system for data transfer comprising:

- a. An attribute information acquiring unit acquiring attribute information of data managed by an equipment connected to a network from the equipment using a common protocol wherein the attribute information is included in the content of data received in a communication from the equipment (abstract; figure 3, element 98; column 2, lines 31-44; column 8, lines 38-42). The initial communications are in a common protocol.
  - b. A transfer selecting unit selecting a method of data transfer based on the attribute information of data acquired by the attribute information acquiring unit (column 8, lines 40-42; column 8, lines 60-63).
  - c. A data receiving unit receiving data by the method of transfer selected by the transfer selecting unit (column 8, lines 60-65; figure 3, element 116).
28. Regarding claim 20, Asano teaches a system for data transfer comprising:
- a. An attribute information acquiring unit acquiring attribute information of data managed by an equipment connected to a network from the equipment using a common protocol wherein the attribute information is included in the content of data received in a communication from the equipment (abstract; figure 3, element 98; column 2, lines 31-44; column 8, lines 38-42). The initial communications are in a common protocol.

- b. A transfer selecting unit selecting a method of data transfer based on the attribute information of data acquired by the attribute information acquiring unit (column 8, lines 40-42; column 8, lines 60-63).
- c. A data transmitting unit transmitting data by the method of transfer selected by the transfer selecting unit (column 8, lines 60-65; figure 3, element 116).

29. Regarding claims 25, 26, 27, 28, 29, 30, 31, and 32, Asano (USPN 5,881,240) teaches all the limitations as applied to claims 12, 13, 14, 15, 16, 17, 18, and 20, respectively, above. He further teaches means wherein the attribute information is extracted from the communication (abstract; column 8, lines 40-42).

***Claim Rejections - 35 USC § 103***

30. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

31. Claims 2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (USPN 6,427,165) in view of the Microsoft Press Computer Dictionary (1997).

32. Regarding claims 2 and 6, although the system disclosed by Anderson (USPN 6,427,165) (as applied to claims 1 and 5, respectively) shows substantial features of the claimed invention, it fails to disclose specifically means wherein the data receiving unit receives data by a plurality of physical layers.

Nonetheless, these features are well known in the art and it would have been an obvious modification of the system disclosed by Anderson (USPN 6,427,165) as evidenced by the Microsoft Press Computer Dictionary.

The Microsoft Press Computer Dictionary defines physical layer as "The first, or lowest, of the seven layers in the...(OSI) model for standardizing computer-to-computer communications (page 364).

Given this well known definition and availability of the physical layer, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Anderson (USPN 6,427,165) by employing the use of multiple physical communications links. This benefits the system because it is a basic unit of computer networking.

33. Claims 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Asano (USPN 5,881,240).

34. Regarding claim 19, Asano (USPN 5,881,240) teaches all the limitations as applied to claim 18. He further teaches means wherein:

- a. The attribute information acquiring unit acquires information from the equipment (abstract; figure 3, element 98; column 2, lines 31-44; column 8, lines 38-42).
- b. The transfer selecting unit selects the method of data transfer based on the attribute information of data selected by a user among the information acquired by the attribute information acquiring unit (column 8, lines 40-42; column 8, lines 60-63).

Although the system disclosed by Asano (USPN 5,881,240) shows substantial features of the claimed invention, it fails to disclose means wherein the attribute information is acquired as a directory information.

Nonetheless, these features are well known in the art and it would have been an obvious modification of the system disclosed by Asano (USPN 5,881,240).

A person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Asano (USPN 5,881,240) by employing the use of a directory for storing the information. Asano (USPN 5,881,240) uses files to send the information to the acquiring unit, so a directory system is in use although not explicitly described by Asano (USPN 5,881,240). This benefits the system because larger numbers of devices can be managed using a structured directory system.

35. Claims 3 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (USPN 6,427,165) in view of Feuerstraeter et al. (USPN 6,285,659).

36. Regarding claims 3 and 7, although the system disclosed by Anderson (USPN 6,427,165) (as applied to claims 1 and 5, respectively) shows substantial features of the claimed invention, it fails to disclose means wherein the transfer selecting unit includes a protocol selecting unit selecting a protocol based on the attribute information of data acquired by the attribute information acquiring unit.

Nonetheless, these features are well known in the art and it would have been an obvious modification of the system disclosed by Anderson (USPN 6,427,165), as evidenced by Feuerstraeter et al. (USPN 6,285,659).

In an analogous art, Feuerstraeter et al. (USPN 6,285,659) discloses a system for the automatic selection of a protocol for communications with means wherein the transfer selecting unit includes a protocol selecting unit selecting a protocol based on the attribute information of data acquired by the attribute information acquiring unit (title; column 5, lines 50-52).

Given the teaching of Feuerstraeter et al. (USPN 6,285,659), a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Anderson (USPN 6,427,165) by including protocol as an attribute to be selected. This benefits the system because the system can also define the optimal protocol for communication among the elements thus improving speed and reliability.

### ***Conclusion***

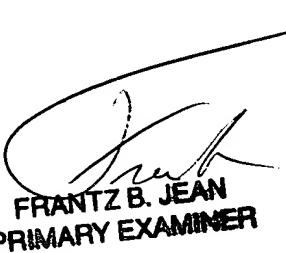
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Parton whose telephone number is (703)306-0543. The examiner can normally be reached on M-F 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (703)305-4792. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kevin Parton  
Examiner  
Art Unit 2153

ksp



FRANTZ B. JEAN  
PRIMARY EXAMINER